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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,716	09/25/2003	Hiroshi Watabe	031217	6377

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EXAMINER

BASINGER, SHERMAN D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,716

Applicant(s)

WATABE ET AL

Examiner

Sherman D. Basinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/8/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanno in view of Gregory.

Kanno discloses a system for controlling a speed of an internal combustion engine installed in an outboard motor mounted on a boat and having a propeller powered by the engine to propel the boat, the engine having a throttle valve 80 that regulates air to be sucked, the system comprising an actuator 86 connected to the throttle valve to move it in an opening direction or in a closing direction; an engine speed detecting means 228; an engine trouble detecting means 238; an engine speed discriminating means 256, 262 for discriminating whether the detected engine speed exceeds a predetermined speed when it is detected that the trouble has occurred in the engine; and a disable 270.

Kanno does not disclose actuator driving means for driving the actuator to move the throttle valve in the closing direction such that the engine speed drops when it is discriminated that the detected engine speed exceeds the predetermined speed.

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Gregory discloses an actuator driving means 18 for driving the actuator 28 to move the throttle valve in the closing direction such that the engine speed drops when it is sensed that the sensor 12 is about to leave the water.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to used an actuator driving means similar to 18 of Gregory as the disable 270 of Kanno such that engine speed drops when it is discriminated that the detected engine speed exceeds the predetermined speed.

Motivation to do so is to control engine speed through use of the throttle as opposed to disabling a piston or causing any other type of engine speed reduction which is more detrimental to the engine than engine speed reduction through throttle control.

The alerting means is either of 266 or 268 of Kanno.

With regard to claim 4, the engine will still run at idle speed.

The actuator of Gregory is considered to move the throttle valve in the closing direction by an amount repeatedly such that the engine speed drops gradually.

With regard to claim 11 see figure 8 and column 14, lines 22-end of Kanno.


Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shomura is cited for what is disclosed in column 1, lines 18-30. Morikami is cited to show an engine in which intake air is controlled for a state different than a normal state.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 703-308-1139. The examiner can normally be reached on M-F (6:00-2:30 ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sherman D. Basinger
Primary Examiner
Art Unit 3617
10/12/04

sdb
10/12/04